

REMARKS

Upon entry of this amendment, claims 1 through 22 are pending.

37 C.F.R. 1.84(p)(5) Objection to the Drawings

The drawings were objected to because the reference character 11 in Figure 1 was not mentioned in the description. Corrected drawing sheet in compliance with 37 C.F.R. § 1.121(d) is enclosed with this amendment. Specifically, the corrected Figure 1 excludes the reference character 11. Applicants request that the objection to the drawings be withdrawn in light of the correction.

§103(a) Rejection of Claims 1-6

Reconsideration is requested of the rejection of claims 1 through 6 as being obvious in view of Mule'Stagno et al., U.S. 6,808,781.

Claim 1, among other things, is directed to a process for the preparation of a single crystal silicon wafer having a controlled oxygen precipitation behavior.

Applicants submit that Mule'Stagno et al. is not prior art under either of §§102(a) or 102(b) by virtue of the applicants' filing date prior to Mule'Stagno et al.'s effective date. The instant application was filed July 8, 2003, which is before Mule'Stagno et al.'s publication date of July 24, 2003. Accordingly, Mule'Stagno et al. can only be relied on as prior art for a §103(a) rejection if it qualifies as prior art under §102(e).

Having established that Mule'Stagno et al. could only be prior art for a §103(a) rejection if it qualifies as prior art under §102(e), applicants' wish to invoke the §103(c) exception to establish that the reference may not be used as §103 prior art against the present application.

In the context of rejections under §102(e) and/or §103(a):
Effective November 29, 1999, subject matter which was prior art under former 35 U.S.C. 103 via 35 U.S.C. 102(e) is now disqualified as prior art against the claimed invention if that subject matter and the claimed invention "were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person." MPEP 706.02(1)(1), first paragraph.

In order to be disqualified as prior art under 35 U.S.C. 103(c), the subject matter which would otherwise be prior art to the claimed invention and the claimed invention must be commonly owned at the time the claimed invention was made. MPEP 706.02(1)(2), first paragraph.

Applicants would like to establish common ownership at this time:

Application No. 10/615,127 to Falster et al. and U.S. Patent No. 6,808,781 to Mule'Stagno et al. were, at the time the invention of Application No. 10/615,127 was made, owned by MEMC Electronic Materials, Inc., St. Peters, MO (US).

Accordingly, claim 1 is patentable, and applicants request withdrawal of the rejection.

Claims 2 through 6 depend from claim 1, and are patentable for the same reasons as claim 1 and by virtue of the additional requirements therein.

Objection to Claims 7-19

Claims 7 through 19 were objected to as depending from a rejected base claim. It is submitted that the base claim 1 is patentable. Accordingly, claims 7-19 are patentable, and applicants request withdrawal of the objection.

Conclusion

In view of the foregoing, applicants respectfully request issuance of a Notice of Allowance for all pending claims.

* Enclosed is a check for \$120.00 for a one-month extension.

Respectfully submitted,



Paul I. J. Fleischut, Reg. No. 35,513
SENNIGER POWERS
One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102
(314) 231-5400

PIF/NAK/clh/leb
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